

LAW OFFICE OF  
**HARRY KRESKY**

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July 30, 2004

General Counsel  
Federal Election Commission  
999 E. St., NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

1 7000 AUG 16 P 12:24

Re: *Citizens for Responsibility and Ethics in Washington v. Peterson et al.*;  
MUR: 5475

Dear Sir or Madam:

This office has been retained by Citizen Works, one of the respondents in the above MUR (hereinafter "respondent").

Please accept this letter as respondent's submission pursuant to 11 CFR Sec. 111.6. It is respectfully submitted that, upon review of the points made herein and the affidavits referred to and incorporated herein, the Commission should dismiss the complaint giving rise to this MUR.

Incorporated herein by reference are the following affidavits submitted by other respondents: affidavit of Alexandra Arace, sworn to July 29, 2004; affidavit of Taylor Hillenmeyer, sworn to July 22, 2004; and the affidavit of Matthew Bradley, sworn to July 29, 2004. Copies of these affidavits are submitted herewith.

The gravamen of the complaint herein is that respondent has made an in kind contribution to respondent Nader for President 2004 (hereinafter the "campaign") by subletting office space and providing a telephone and reception services to the campaign at below market value, that is, at "less than usual and normal charge." 11 CFR Sec. 110.52(d)(2) defines "usual and normal charge" as:

... the price of those goods in the market from which they ordinarily would have been purchased at the time....

Each of the items in question will be addressed below.

Rent - The affidavit of Taylor Hillenmeyer, the Vice President of leasing of the managing agent for the owner of the space leased by respondent states, in paragraphs 11 through 13, that the price per square foot of the space leased to respondent is slightly higher than the present fair market value for the property rented and comparable property in the vicinity. Both this affidavit

LAW OFFICE OF  
HARRY KRESKY

General Counsel  
July 30, 2004  
page 2

and paragraphs 6-9 of the affidavit of Alexandra Arace, the office manager of respondent, make clear that the campaign paid rent for the space it sublet in fair proportion to its share of the total space occupied by respondent and respondent's other sublessees. Thus, the campaign paid fair market rent and, in addition, paid one month security.

Telephone - The affidavit of Matthew Bradley, office manager for the campaign, explains that the phone lines used by the campaign were billed directly to it. The campaign at no time used phone lines belonging to or paid for by respondent.

Reception - The affidavit of Alexandra Arace, in paragraph 10 and that of Matthew Bradley in paragraph 3, make clear that reception services have not been provided to the campaign.

These affidavits make clear as well that the campaign purchased its own computers, phone lines and office supplies and at no time used respondent's DSL internet service or fax as did the other subtenants. Further, on March 21, 2004 respondent assigned its lease to the premises to the campaign, effective April 1, 2004, at which time respondent vacated the premises.

It is apparent from the above that the complaint is entirely without merit and should be dismissed.

Respectfully yours,

  
Harry Kresky

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## STATEMENT OF DESIGNATION OF COUNSEL

Use one form for each respondent

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSELREF 5475

2004 AUG 16 P 1:13

NAME OF COUNSEL HARRY KRESKY  
FIRM LAW OFFICE OF HARRY KRESKY  
ADDRESS 250 W. 57TH ST (Ste 2017)  
NEW YORK, NY  
10117  
TELEPHONE 212 581-1516  
FAX 212 581-1352

The above-named individual is hereby designated as my counsel  
and is authorized to receive any notifications and other communications  
from the Commission and to act on my behalf before the Commission.

Citizen Works / Brian H. Bulon, President  
Print Name

7/28/04 Brian H. Bulon President,  
Date Signature Title Citizen Works

RESPONDENT'S NAME CITIZEN WORKS

ADDRESS P.O. Box 18178  
Nashington, DC 20036

TELEPHONE HOME

BUSINESS 202 265-6114

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**Affidavit of Alexandra Arace**

1. My name is Alexandra Arace and I have read the complaint against Citizen Works and I make the following statement under oath:
2. From August of 2002 through April of 2004, including the time periods alleged in the complaint, I was, among other duties, the manager of the office at Citizen Works. I am not and have never been employed by Nader for President 2004 or its exploratory committee.
3. Throughout 2003, I was personally responsible for advertising Citizen Works' available office space on the open market and did so frequently both in the *Washington Post* and in the *Washington City Paper* as Citizen Works was routinely seeking subtenants.
4. As the office manager, I was responsible for Citizen Works' relations with its sublettors and with the Stout and Teague building management company (Stout and Teague). I showed prospective tenants the offices available. I assessed the square footage of leased space for sublettors, including the Nader 2004 Presidential Exploratory Committee, and inserted this square footage into Citizen Works' sublease template. All subtenants, including the Nader 2004 Presidential Exploratory Committee, paid rent based on the amount of office square footage Citizen Works leased to them and that included use of the common areas, including the kitchen and conference room.
5. Stout and Teague and the Citizen Works board had to approve of all subleases, including the Nader Committee's lease, which they did approve in October 2003.

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6. At that time the aggregate monthly rent payment Citizen Works owed to the landlord was \$13,266.68. Subtenants either paid rent to Citizen Works or paid the management company directly, usually through a check collected by me, at the beginning of each month.
  7. During the time periods alleged in the complaint, Citizen Works subletted space to the following organizations: The All Ethiopian Unity Organization, Black Voices for Peace, the National Black Environmental Justice Network, the D.C. Library Renaissance Project, The Clark Group, and the Nader 2004 Presidential Exploratory Committee.
  8. Citizen Works advertised and rented individual furnished offices of approximately 120 square feet for \$900/month. I used these figures as a base to determine a consistent rental rate for each of the sublettors, including the Nader 2004 Presidential Exploratory Committee.
  9. For the time period identified in the complaint, the Nader 2004 Presidential Exploratory Committee subleased approximately 900 square feet of furnished office space from Citizen Works for a monthly rate of \$6700. The committee also paid a security deposit in the same amount (\$6700). All committee rent payments were made in the beginning of each month.
  10. During the time periods alleged in the complaint, I sat at the work station in the front of the office but I was not the receptionist for the suite. The suite did not have a "receptionist." The office suite contains three open administrative stations. Citizen Works rented one, the Clark Group rented another, and the Nader Committee rented the third, each staffed with their own personnel.

11. The Nader Committee was responsible for purchasing its own computers, phone lines and office supplies.
12. All the tenants, except the Nader Committee, used the suite's DSL Internet connection and fax machine as part of their normal rent charge.
13. Education Allies subletted space for more than a year from Citizen Works but ceased subletting in the spring of 2003. Education Allies' phone number was (202) 265-4998 when it rented space at Citizen Works.

Alexandra Arace  
Alexandra Arace

Washington D.C.

Subscribed and Sworn before me 29<sup>th</sup> Day of July  
on 2004 c 1725 Eye street, NW, 4<sup>th</sup> floor Washington, DC

Grace A. Owuor  
Notary Public, District of Columbia  
My Commission Expires 10-14-2007

District of Columbia : SS  
Subscribed and Sworn to before me  
this 29<sup>th</sup> day of July, 2004  
Grace A. Owuor  
Notary Public, D.C.  
My commission expires 10-14-2007

**Affidavit of Matthew Bradley**

1. My name is Matthew Bradley and I am currently employed by Nader for President 2004 as its webmaster. I have read the complaint against Nader for President and Citizen Works and I make the following statement under oath:
2. From the period of mid-October through February 2004, I was employed as the office manager for the Nader 2004 Presidential Exploratory Committee. I was employed as the office manager for the Committee from its inception and as such, I established and maintained our office space. I have never been employed by Citizen Works.
3. My duties included, but were not limited to, answering the Committee's phones, obtaining the Committee's mail and signing for packages/greeting visitors, of which there were very few.
4. As part of my duties, I was responsible for ensuring that all phone lines used by the Committee were assigned to and paid for by the Committee. The attached bill reflects the installation of phone lines used by the Committee since its inception.
5. The Committee was one of approximately six sublettors in the Citizen Works suite, but during this time there was no sublettor named Educational Allies. Their former phone number (202) 265-4998, was a number assigned to the Committee, as reflected on our phone bill, a copy of which is attached. That line is properly answered by the Nader campaign as it is one of the committee's phone lines.
6. As part of my duties, I purchased and maintained the computers, office equipment and supplies for the Committee and paid fair market value for those items.

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7. The allegations in the complaint and the Washington Post article regarding Citizen Works and the Nader campaign are based on erroneous and untrue assumptions.
8. Nader for President 2004 and its exploratory committee has not accepted any subsidized rent or prohibited contribution of goods or services from Citizen Works.

Matthew D. Bradley  
Matthew Bradley

DC Notary:

Subscribed and Sworn before me

Doris L. H.

On

7-29-04

DORIS L. HAN  
Notary Public, District of Columbia  
My Commission Expires March 14, 2009



Verizon

Make progress every day

NPEC 2004

Billing Date: 11/19/03 Page 1 of 19

Telephone Number: 202 265-4000

Account Number: [REDACTED]

How to Reach Us: See page 2

## Account Summary

Previous Charges	\$ .00
Payment Received	.00
Balance Forward	\$ .00

## New Charges

Verizon (page 4)	\$625.34
Verizon Online (page 11)	161.38
Total New Charges due Dec 18	\$786.72
Total Due (Past Due + New)	\$786.72

Total Due if Paid After 12/18/03 \$794.54  
Includes late payment charge of 1%



## Manage Your Verizon Account Online!

View & pay bills, request repairs, place orders.  
It's quick and easy.

Go to [verizon.com](http://verizon.com)

Click "Sign In" under "Manage My Account".

First time user? Get started with ...

User ID: [REDACTED]

Password: [REDACTED]

... and customize your ID as you register.  
Then follow the step-by-step instructions.



## Verizon Direct Payment Option

To enroll, please read and sign the agreement  
on the reverse side of the payment form below



Account: 300851430530 4-Y

**NADER 2004 PRESIDENTIAL  
EXPLORATORY COMMITTEE, INC.**

1039

DATE

12/11/03

15-167/640  
00PAY  
TO THE  
ORDER OF

Seven hundred eighty-six 72/100

\$ 786.72

DOLLARS

NPEC 2004  
Washington, DC 20008

FOR

[Signature]



Make progress every day

Billing Date: 11/19/03 Page 6 of 19  
 Telephone Number: 202 265-4000  
 Account Number: [REDACTED]  
 How to Reach Us: See page 2

## Additions and Changes to Verizon Service(s) - Detail

LG 00001

Activity on 202 265-4000

Service Request 495075060 (continued)

Added to Monthly Service from Oct 21, 2003 thru Nov 18, 2003

Description	Qty	Pre-Rated	One-Time	Type	Amount
1. CustorPAK Bundled Feature Package .00 Per Month	1	.00			.00
2. CustorPAK Line - Unrestricted Exchange Access 6.05 Per Month	1	5.65			5.65
3. CustorPAK Line - Unrestricted Intercommunication 14.33 Per Month	1	13.37			13.37
4. Federal Subscriber Line Charge Credit 3.61 Per Month	1	3.61			3.61
5. Federal Subscriber Line Charge Multi Line 3.61 Per Month	1	3.61			3.61
6. Federal Universal Service Fund Surcharge Multi Line .09 Per Month	1	.09			.09
7. Local Number Portability Surcharge .21 Per Month	1	.21			.21
8. Non-Published Service .76 Per Month	1	.76			.76
9. Series Hunting .00 Per Month	1	.00			.00
		20.08			20.08
<b>Total for 202 265-4000</b>		<b>20.08</b>	<b>83.25</b>		<b>103.33</b>

\*Activity on 202 265-4998

\*Service Request 495075060

\*Account Activity, Effective on Oct 20, 2003

Description	Qty	Pre-Rated	One-Time	Type	Amount
10. Line Connection Charge - Per Line	1		25.00		25.00

\*Added to Monthly Service from Oct 21, 2003 thru Nov 18, 2003

Description	Qty	Pre-Rated	One-Time	Type	Amount
11. CustorPAK Bundled Feature Package .00 Per Month	1	.00			.00
12. CustorPAK Line - Unrestricted Exchange Access 6.05 Per Month	1	5.65			5.65
13. CustorPAK Line - Unrestricted Intercommunication 14.33 Per Month	1	13.37			13.37
14. Federal Subscriber Line Charge Credit 3.61 Per Month	1	3.61			3.61

# Indicates charges for non-regulated product(s) or service(s)

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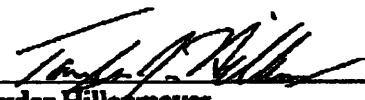
**Affidavit of Taylor Hillenmeyer**

1. My name is Taylor Hillenmeyer, I have read the complaint against Citizen Works and the Nader campaign, and I make the following statement under oath:
2. I am a Vice President of Leasing for Stout and Teague Management Corporation, which is the agent for Resources & Conservation Center, L.P. (RCC).
3. In June of 2001, RCC entered a lease with Citizen Works for 4371 square feet of office space at 1400 16<sup>th</sup> St. N.W., Suite 225, Washington, D.C. (the property).
4. During the time period -- November 2003 through February 2004 -- alleged in the complaint, Citizen Works was RCC's tenant.
5. The Citizen Works lease requires Stout and Teague to approve the terms of all subleases as a precondition to the sublease.
6. During the last three years, I have reviewed all of Citizen Works' subleases.
7. The terms of each of Citizen Works' subleases over the course of three years and multiple subtenants were virtually identical in that they were structured to rent the square footage of actual furnished individual offices or work stations and to allow for access and use of the common areas of the premises.
8. In October 2003, Citizen Works sought to sublet space to the Nader 2004 Presidential Exploratory Committee.
9. In mid-October 2003, Citizen Works subleased approximately 900 square feet of furnished office space/work stations to the Nader 2004 Presidential Exploratory Committee.

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10. I approved of the sublease on behalf of the management company and RCC.
  11. In October of 2003, Citizen Works' lease required it to pay rent in the amount of \$13,266.68 a month. This amounts to a rate of \$36.42 per square foot of leased space for the property.
  12. This is fair market value or above fair market value for this property and comparable properties in our location in downtown Washington, D.C.
  13. Indeed, in July of 2004, we are currently writing leases for space in this building at a rate of \$35.50-\$36.00 a square foot.
  14. The Exploratory Committee paid both a security deposit and a monthly rent of \$6700, during the time periods alleged at the beginning of each month.
  15. During this time period, Citizen Works also had subleases with Black Voices for Peace, the National Black Environmental Justice Network, the Clark Group, the D.C. Library Renaissance Project, and the All Ethiopian Unity Organization.
  16. The factual allegations regarding the rent and fair market value in both the complaint and The Washington Post article are not accurate and are based on untrue assumptions about the total square footage of the lease, the rent charged, and the number of subtenants.

17. The Nader campaign paid the normal and usual charge of the rental space in the open market within a commercially reasonable time.

  
Taylor Hillenmeyer  
Vice President Leasing  
Stout and Teague

Washington D.C.

Subscribed to and sworn before me

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on

7-22-04

DORIS E. HAM  
Notary Public, District of Columbia  
Commission Expires March 14, 2009

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